

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Laura Kastner	Team: Squad #6	CCRB Case #: 201407219	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 07/15/2014 8:17 PM	Location of Incident: East New York Avenue and Powell Street	Precinct: 73	18 Mo. SOL 1/15/2016	EO SOL 1/15/2016	
Date/Time CV Reported Fri, 07/18/2014 1:27 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 07/18/2014 1:29 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Yu	19716	947625	073 PCT
2. POM Alejandro Villalona	25443	947866	073 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Terence Mcdowell	02680	932998	073 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Yu	Abuse: PO Michael Yu searched the car in which § 87(2)(b) was an occupant.	
§ 87(4-b), § 87(2)(g)		

### Case Summary

On July 15, 2014, at approximately 8pm, § 87(2)(b) who was operating his white pick-up truck, was stopped by PO Michael Yu and PO Alejandro Villalona on East New York Avenue and Powell Street in Brooklyn for suspicion of § 87(2)(b). During the encounter, PO Yu allegedly searched underneath a tarp which covered the bed of the pick-up truck (**Allegation A**). § 87(2)(b) was subsequently arrested for § 87(2)(b) and later released with a Desk Appearance Ticket at the precinct. § 87(4-b), § 87(2)(g)

### Mediation, Civil and Criminal Histories

- This case was not eligible for mediation due to § 87(2)(b)'s arrest.
- According to the NYC Comptroller's Office, no Notice of Claim has been filed regarding this incident, as of December 23, 2014, which is more than two months after the expiration of the 90-day filing deadline.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s first CCRB complaint (encl. 4).
- PO Villalona and PO Yu have both been members of the NYPD for 6 years and have no prior substantiated CCRB allegations against them (encl. 3A-3B).

### Finding and Recommendations

#### Explanation of Subject Officer Identification

- § 87(2)(b) testified that the male Asian officer searched underneath the tarp of his pick-up truck. § 87(2)(g)
- PO Yu identified PO Villalona as his partner for the date of the incident. § 87(4-b), § 87(2)(g)

#### Additional Officers Interviewed

Sgt. Terrence McDowell was interviewed at the CCRB on December 17, 2014 however during his interview he confirmed he did not witness or participate in the car stop. (encl. 16F).

#### Allegations not pleaded

- § 87(2)(g)

§ 87(2)(g)

**Allegation A: Abuse of Authority: PO Michael Yu searched the car in which § 87(2)(b) was an occupant.**

§ 87(2)(b) provided a telephone statement on August 19, 2014 and an in-person statement on August 26, 2014 in regard to this incident (encl. 8A-8F). § 87(2)(b) admitted to loading his pick-up truck with building materials that he claimed were from a family owned business that was disposing of such material. § 87(2)(b) placed the materials in the bed of the pick-up truck and then covered it with a tarp. PO Yu and PO Villalona stopped § 87(2)(b)'s vehicle for the aforementioned violation. During the encounter, § 87(2)(b) alleged that PO Villalona motioned to PO Yu, which § 87(2)(b) believed was a signal for PO Yu to search underneath the tarp. § 87(2)(b) then stated that PO Yu lifted the tarp and searched underneath it.

PO Villalona, who was interviewed at the CCRB on November 20, 2014, did not recall the incident (encl. 15G). However, PO Yu, who was interviewed at the CCRB on November 18, 2014, § 87(2)(g) (encl. 14D-14E). PO Yu stated that he observed § 87(2)(b) loading his pick-up truck with building materials but did not recall seeing a tarp. In addition, PO Yu stated that the materials that were on the bed truck exceeded the height of the bed's walls. PO Yu denied searching underneath a tarp and stated that the materials were visible upon approach. § 87(2)(b) was subsequently arrested after he was not able to provide proof of ownership.

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Team: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date